

I certify that the attached is a true and  
correct copy of HB 1239, which  
was filed of record on FEB 20 1989

1989 MAR -3 PM 3:38

and referred to the committee on:

Environmental Affairs

HOUSE OF REPRESENTATIVES

*Betty Murray*

Chief Clerk of the House

By

*[Signature]*

FILED FEB 20 1989

H. B. No. 1239

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of permits to certain persons by the Texas  
Air Control Board, the Texas Water Commission, and the Texas  
Department of Health.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Clean Air Act (Article 4477-5, Vernon's  
Texas Civil Statutes) is amended by adding Section 3.283 to read as  
follows:

Sec. 3.283. PROHIBITION ON ISSUANCE OF PERMIT OR GRANTING OF  
EXEMPTION. (a) In this section, "permit" means a permit or  
special permit issued by the board under this Act.

(b) Except as provided by Subsection (d) of this section,  
the board may not issue a construction or operating permit, or  
grant an exemption under Section 3.27(a) of this Act, to an owner  
or operator of a facility that has been or is being constructed or  
operated without a permit required by this Act. The prohibition on  
the issuance of a permit or the granting of an exemption applies  
for three years after the date on which the owner or operator  
receives notice of the violation or, if notice of the violation is  
not received, for three years after the date on which the owner or  
operator first applies for the required permit. The prohibition  
applies to any successor in interest to the facility.

(c) If the board or a local government with enforcement  
authority under Section 4.03 of this Act has information that

1 indicates that a facility has been or is being constructed or  
2 operated without a permit required by this Act, the board or local  
3 government shall provide written notice of the violation to the  
4 owner or operator of the facility. The notice must describe the  
5 violation and inform the owner or operator of the penalties that  
6 may be assessed under this Act, including the prohibition on  
7 issuance of a permit or the granting of an exemption. A local  
8 government that provides the notice shall send a copy of the notice  
9 to the board. Failure of the board or a local government to  
10 provide notice of the violation does not waive the prohibition  
11 under Subsection (b) of this section.

12 (d) The board may issue a permit or grant an exemption  
13 notwithstanding the prohibition under Subsection (b) of this  
14 section if the owner or operator:

15 (1) submits to the board a sworn application setting  
16 forth in detail evidence supporting the following facts:

17 (A) that based on technological information and  
18 legal advice available to the owner or operator, the owner or  
19 operator was not aware that a permit was required or reasonably  
20 believed that a permit was not required; and

21 (B) the owner or operator ceased operations  
22 immediately on being notified by the board or a local government  
23 with enforcement authority that a permit was required; and

24 (2) the board finds that the owner or operator has  
25 proven those facts by clear and convincing evidence.

26 (e) Section 3.271 of this Act applies to consideration of an  
27 application for a permit under Subsection (d) of this section.

1           SECTION 2. Chapter 26, Water Code, is amended by adding  
2   Section 26.0284 to read as follows:

3           Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT. (a)  
4   Except as provided by Subsection (c) of this section, the  
5   commission may not issue a permit to an owner or operator of a  
6   sewer system, treatment facility, or disposal facility that has  
7   been or is discharging waste without a permit required by this  
8   subchapter. The prohibition on the issuance of a permit applies  
9   for three years after the date on which the owner or operator  
10   receives notice of the violation or, if notice of the violation is  
11   not received, for three years after the date on which the owner or  
12   operator first applies for the required permit. The prohibition  
13   applies to any successor in interest to the sewer system, treatment  
14   facility, or disposal facility.

15           (b) If the board or a local government with enforcement  
16   authority under Section 26.124 of this code has information that  
17   indicates that a sewer system, treatment facility, or disposal  
18   facility has been or is discharging waste without a permit required  
19   by this subchapter, the commission or local government shall  
20   provide written notice of the violation to the owner or operator of  
21   the facility. The notice must describe the violation and inform  
22   the owner or operator of the penalties that may be assessed under  
23   this code, including the prohibition on issuance of a permit. A  
24   local government that provides the notice shall send a copy of the  
25   notice to the commission. Failure of the commission or a local  
26   government to provide notice of the violation does not waive the  
27   prohibition under Subsection (a) of this section.

1       (c) The commission may issue a permit or grant an exemption  
2 notwithstanding the prohibition under Subsection (a) of this  
3 section if the owner or operator:

4           (1) submits to the commission a sworn application  
5 setting forth in detail evidence supporting the following facts:

6           (A) that based on technological information and  
7 legal advice available to the owner or operator, the owner or  
8 operator was not aware that a permit was required or reasonably  
9 believed that a permit was not required; and

10          (B) the owner or operator ceased operations  
11 immediately on being notified by the commission or a local  
12 government with enforcement authority that a permit was required;  
13 and

14          (2) the commission finds that the owner or operator  
15 has proven those facts by clear and convincing evidence.

16          (d) Section 26.028 of this code applies to consideration of  
17 an application for a permit under Subsection (c) of this section.

18          SECTION 3. Chapter 27, Water Code, is amended by adding  
19 Section 27.0181 to read as follows:

20          Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT; EXEMPTION.

21          (a) Except as provided by Subsection (c) of this section, the  
22 commission may not issue a permit to an owner or operator of an  
23 injection well that has been or is being operated without a permit  
24 required by this subchapter. The prohibition on the issuance of a  
25 permit applies for three years after the date on which the owner or  
26 operator receives notice of the violation or, if notice of the  
27 violation is not received, for three years after the date on which

1 the owner or operator first applies for the required permit. The  
2 prohibition applies to any successor in interest to the injection  
3 well.

4 (b) If the commission or a local government with enforcement  
5 authority under Section 26.124 of this code has information that  
6 indicates that an injection well has been or is being operated  
7 without a permit required by this subchapter, the commission or  
8 local government shall provide written notice of the violation to  
9 the owner or operator of the injection well. The notice must  
10 describe the violation and inform the owner or operator of the  
11 penalties that may be assessed under this code, including the  
12 prohibition on issuance of a permit. A local government that  
13 provides the notice shall send a copy of the notice to the  
14 commission. Failure of the commission or a local government to  
15 provide notice of the violation does not waive the prohibition  
16 under Subsection (a) of this section.

17 (c) The commission may issue a permit or grant an exemption  
18 notwithstanding the prohibition under Subsection (a) of this  
19 section if the owner or operator:

20 (1) submits to the commission a sworn application  
21 setting forth in detail evidence supporting the following facts:

22 (A) that based on technological information and  
23 legal advice available to the owner or operator, the owner or  
24 operator was not aware that a permit was required or reasonably  
25 believed that a permit was not required; and

26 (B) the owner or operator ceased operations  
27 immediately on being notified by the commission or a local

1 government with enforcement authority that a permit was required;  
2 and

3 (2) the commission finds that the owner or operator  
4 has proven those facts by clear and convincing evidence.

5 (d) Section 27.018 of this code applies to consideration of  
6 an application for a permit under Subsection (c) of this section.

7 SECTION 4. The Solid Waste Disposal Act (Article 4477-7,  
8 Vernon's Texas Civil Statutes) is amended by adding Section 4C to  
9 read as follows:

10 Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this  
11 section, "state agency" means the commission or the department.

12 (b) Except as provided by Subsection (d) of this section,  
13 the state agency with jurisdiction may not issue a permit to an  
14 owner or operator of a facility that has been or is being operated  
15 without a permit required by this Act. The prohibition on the  
16 issuance of a permit applies for three years after the date on  
17 which the owner or operator receives notice of the violation or, if  
18 notice of the violation is not received, for three years after the  
19 date on which the owner or operator first applies for the required  
20 permit. The prohibition applies to any successor in interest to  
21 the facility.

22 (c) If the state agency or a local government with  
23 enforcement authority under Section 8(a)(4) of this Act has  
24 information that indicates that a facility has been or is being  
25 operated without a permit required by this Act, the state agency  
26 with jurisdiction or local government shall provide written notice  
27 of the violation to the owner or operator of the facility. The

1 notice must describe the violation and inform the owner or operator  
2 of the penalties that may be assessed under this Act, including the  
3 prohibition on issuance of a permit. A local government that  
4 provides the notice shall send a copy of the notice to the state  
5 agency with jurisdiction. Failure of the state agency or a local  
6 government to provide notice of the violation does not waive the  
7 prohibition under Subsection (b) of this section.

8 (d) The state agency with jurisdiction may issue a permit  
9 notwithstanding the prohibition under Subsection (b) of this  
10 section if the owner or operator:

11 (1) submits to the state agency a sworn application  
12 setting forth in detail evidence supporting the following facts:

13 (A) that based on technological information and  
14 legal advice available to the owner or operator, the owner or  
15 operator was not aware that a permit was required or reasonably  
16 believed that a permit was not required; and

17 (B) the owner or operator ceased operations  
18 immediately on being notified by the state agency or a local  
19 government with enforcement authority that a permit was required;  
20 and

21 (2) the state agency finds that the owner or operator  
22 has proven those facts by clear and convincing evidence.

23 (e) Section 4(e)(4) of this Act applies to consideration of  
24 an application for a permit under Subsection (d) of this section.

25 SECTION 5. This Act takes effect September 1, 1989, and  
26 applies to:

27 (1) an owner or operator:

1 (A) who is provided with written notice on or  
2 after that date by the Texas Air Control Board, the Texas Water  
3 Commission, the Texas Department of Health, or a local government  
4 with enforcement authority that the person:

5 (i) has operated or constructed or is  
6 operating or constructing a facility or an injection well without a  
7 permit in violation of the Texas Clean Air Act (Article 4477-5,  
8 Vernon's Texas Civil Statutes), the Solid Waste Disposal Act  
9 (Article 4477-7, Vernon's Texas Civil Statutes), or Chapter 27,  
10 Water Code; or

11 (ii) has discharged waste or is  
12 discharging waste from a sewer system, treatment facility, or  
13 disposal facility without a permit required under Chapter 26, Water  
14 Code; or

15 (B) who has a permit application pending on  
16 September 1, 1989, for consideration by, or submits a permit  
17 application after September 1, 1989, to, the Texas Air Control  
18 Board, the Texas Water Commission, or the Texas Department of  
19 Health for:

20 (i) a facility or an injection well that  
21 the person has operated or constructed or is operating or  
22 constructing in violation of the Texas Clean Air Act (Article  
23 4477-5, Vernon's Texas Civil Statutes), the Solid Waste Disposal  
24 Act (Article 4477-7, Vernon's Texas Civil Statutes), or Chapter 27,  
25 Water Code; or

26 (ii) a sewer system, treatment facility,  
27 or disposal facility that has discharged or is discharging waste



1 without a permit required under Chapter 26, Water Code; or

2 (2) the owner or operator's successor in interest in  
3 that system or facility.

4 SECTION 6. The importance of this legislation and the  
5 crowded condition of the calendars in both houses create an  
6 emergency and an imperative public necessity that the  
7 constitutional rule requiring bills to be read on three several  
8 days in each house be suspended, and this rule is hereby suspended.

# HOUSE COMMITTEE REPORT

00 APR 23 PM 10:15

1st Printing

By Polumbo

H.B. No. 1239

Substitute the following for H.B. No. 1239:

By Kuempel

C.S.H.B. No. 1239

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes) is amended by adding Section 3.283 to read as follows:

Sec. 3.283. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "permit" means a permit, special permit, or exemption issued by the board under this Act.

(b) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(c) The board may not issue a construction or operating permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period of three years after the date on which the owner or operator receives notice of the violation pursuant to Subsection (d) of this section and becomes effective upon the issuance of an order by the

1 board or a court relative to that violation. However, this  
2 prohibition does not apply if the owner or operator ceased  
3 operations immediately upon receipt of the notice of violation.

4 (d) If the board or a local government with enforcement  
5 authority under Section 4.03 of this Act has information that  
6 indicates that a facility described in Subsection (c) of this  
7 section has been or is being constructed or operated without a  
8 permit required by this Act, the board or local government shall  
9 provide written notice of the violation to the owner or operator of  
10 the facility. The notice must describe the violation and inform  
11 the owner or operator of the penalties that may be assessed under  
12 this Act, including the prohibition on issuance of a permit. A  
13 local government that provides the notice shall send a copy of the  
14 notice to the board.

15 (e) The board shall adopt rules to implement this section.

16 SECTION 2. Chapter 26, Water Code, is amended by adding  
17 Section 26.0284 to read as follows:

18 Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
19 this section, "facility" means a sewer system, treatment facility,  
20 or disposal facility.

21 (b) In this section, "plant site" includes all  
22 geographically contiguous property, which may be divided by public  
23 or private rights-of-way, as well as noncontiguous properties owned  
24 by the same person but connected by a right-of-way that the person  
25 controls and to which the public does not have access.

26 (c) The commission may not issue a permit for the initial  
27 facility at a new plant site to an owner or operator who, in

1 knowing disregard of the requirements of this chapter, discharges  
2 waste from the facility without a permit required by this chapter.  
3 This prohibition on permit issuance applies for a period of three  
4 years after the date on which the owner or operator receives notice  
5 of the violation pursuant to Subsection (d) of this section and  
6 becomes effective upon the issuance of an order by the commission  
7 or a court relative to that violation. However, this prohibition  
8 does not apply if the owner or operator ceased operations  
9 immediately upon receipt of the notice of violation.

10 (d) If the commission or a local government with enforcement  
11 authority under Section 26.124 of this code has information that  
12 indicates that a facility described in Subsection (c) of this  
13 section has been or is discharging waste without a permit required  
14 by this chapter, the commission or local government shall provide  
15 written notice of the violation to the owner or operator of the  
16 facility. The notice must describe the violation and inform the  
17 owner or operator of the penalties that may be assessed under this  
18 chapter, including the prohibition on issuance of a permit. A  
19 local government that provides the notice shall send a copy of the  
20 notice to the commission.

21 (e) The prohibition under Subsection (c) of this section  
22 does not apply if, within five days after the receipt of notice of  
23 violation, the owner or operator applies for a finding from the  
24 commission that the activity is a necessary activity, and that its  
25 continuation would be more protective of the environment than its  
26 cessation, and within 10 days of receipt of that application, the  
27 commission makes such a finding. This does not, however, limit the

1 liability of the owner or operator under this code for each day the  
2 owner or operator continues to operate without a permit.  
3 Additionally, upon becoming aware of such a situation, the  
4 executive director shall take measures to put a permit application  
5 for the violating facility preferentially ahead of the processing  
6 of other applications.

7 (f) The commission shall adopt rules to implement this  
8 section.

9 SECTION 3. Chapter 27, Water Code, is amended by adding  
10 Section 27.0181 to read as follows:

11 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
12 this section, "plant site" includes all geographically contiguous  
13 property, which may be divided by public or private rights-of-way,  
14 as well as noncontiguous properties owned by the same person but  
15 connected by a right-of-way that the person controls and to which  
16 the public does not have access.

17 (b) The commission may not issue a permit for the initial  
18 injection well at a new plant site to an owner or operator who, in  
19 knowing disregard of the requirements of this chapter, constructs  
20 or operates an injection well without a permit required by this  
21 chapter. This prohibition on permit issuance applies for a period  
22 of three years after the date on which the owner or operator  
23 receives notice of the violation pursuant to Subsection (c) of this  
24 section and becomes effective upon the issuance of an order by the  
25 commission or a court relative to that violation. However, this  
26 prohibition does not apply if the owner or operator ceased  
27 operations immediately upon receipt of the notice of violation.

(c) If the commission or a local government with enforcement authority under this chapter has information that indicates that an injection well described in Subsection (b) of this section has been or is being constructed or operated without a permit required by this chapter, the commission or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission.

(d) The commission shall adopt rules to implement this section.

SECTION 4. The Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended by adding Section 4C to read as follows:

Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(b) The commission or department may not issue a permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period

1 of three years after the date on which the owner or operator  
2 receives notice of the violation pursuant to Subsection (c) of this  
3 section and becomes effective upon the issuance of an order by the  
4 commission or department or a court relative to that violation.  
5 However, this prohibition does not apply if the owner or operator  
6 ceased operations immediately upon receipt of the notice of  
7 violation.

8 (c) If the commission or department or a local government  
9 with enforcement authority under Section 8(a)(4) of this Act has  
10 information that indicates that a facility described in Subsection  
11 (b) of this section has been or is being constructed or operated  
12 without a permit required by this Act, the commission, department,  
13 or local government shall provide written notice of the violation  
14 to the owner or operator of the facility. The notice must describe  
15 the violation and inform the owner or operator of the penalties  
16 that may be assessed under this Act, including the prohibition on  
17 issuance of a permit. A local government that provides the notice  
18 shall send a copy of the notice to the commission or department.

19 (d) The commission or department shall adopt rules to  
20 implement this section.

21 SECTION 5. This Act takes effect September 1, 1989, and  
22 applies to an owner or operator who is provided with written notice  
23 on or after that date by the Texas Air Control Board, the Texas  
24 Water Commission, the Texas Department of Health, or a local  
25 government with enforcement authority that the person:

26 (1) has operated or constructed or is operating or  
27 constructing a facility or an injection well without a permit in

1 violation of the Texas Clean Air Act (Article 4477-5, Vernon's  
2 Texas Civil Statutes), the Solid Waste Disposal Act (Article  
3 4477-7, Vernon's Texas Civil Statutes), or Chapter 27, Water Code;  
4 or

5 (2) has discharged waste or is discharging waste from  
6 a sewer system, treatment facility, or disposal facility without a  
7 permit required under Chapter 26, Water Code.

8 SECTION 6. The importance of this legislation and the  
9 crowded condition of the calendars in both houses create an  
10 emergency and an imperative public necessity that the  
11 constitutional rule requiring bills to be read on three several  
12 days in each house be suspended, and this rule is hereby suspended.



# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

20 April, 1989  
(date)

Sir:

We, your COMMITTEE ON ENVIRONMENTAL AFFAIRS,

to whom was referred HB 1239 have had the same under consideration and beg to report  
(measure)  
back with the recommendation that it

- ( ) do pass, without amendment.  
( ) do pass, with amendment(s).  
(✓) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (✓)yes ( ) no An actuarial analysis was requested. ( ) yes (✓)no

An author's fiscal statement was requested. ( ) yes (✓)no

A criminal justice policy impact statement was prepared. ( ) yes (✓)no

A water development policy impact statement was requested. ( ) yes (✓)no

(✓) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ( ) Local, (✓) Consent, or ( ) Resolutions Calendar.

This measure ( ) proposes new law. (✓) amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Saunders, Ch.	✓			
Valigura, V.C.	✓			
McKinney, C.B.O.	✓			
Alexander	✓			
Eckels	✓			
Hightower				✓
Kuempel	✓			
Oakley				✓
Pennington	✓			

Total

7 aye  
0 nay  
0 present, not voting  
2 absent

Robert S. Saunders  
CHAIRMAN  
Robert K. Wall  
COMMITTEE COORDINATOR

COMMITTEE ON ENVIRONMENTAL AFFAIRS

BY: Polumbo  
BY: Kuempel

H.B. 1239  
C.S.H.B. 1239

BILL ANALYSIS

BACKGROUND

Currently it is possible for a person, whether knowingly or unknowingly, to begin a regulated activity without a necessary permit from the Texas Department of Health, the Texas Air Control Board and the Texas Water Commission. In addition, it is possible for such a person to apply for the necessary permit while the unpermitted operation continues, and for that person to receive a permit from the agency for the regulated activity which has been illegally conducted.

This situation presents potential harm to the public in two ways: 1) it subjects the public to any potential environmental consequences prior to the state agency's review to determine whether the facility will adversely affect the public, and 2) it penalizes conscientious operators who abide by the permitting process requirements.

PURPOSE

H.B. 1239 will prohibit those persons who operate without a permit from receiving a permit for three years unless such a person can prove that it was unreasonable to believe that a permit was not required and ceases the unpermitted activity until receipt of a permit.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any rulemaking authority to a state officer, agency, department or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Section 3.283, Texas Clean Air Act is amended:

Sec. 3.283. (a) Defines "permit".

(b) Defines "plant site".

(c) Prohibits the issuance of a construction or operating permit, for the initial facility at a new site, to an owner or operator of a facility conducting an unpermitted activity; provides that the prohibition applies for three years; however, this prohibition does not apply if the owner or operator ceased operations immediately upon receipt of the notice of violation.

(d) Requires the board or an authorized local government to provide written notice to the owner or operator in violation and include a description of the violation and any penalties; and provides that local governments must forward a copy of the notice to the board.

(e) The board shall adopt rules to implement this section.

SECTION 2. Section 26.0284, Chapter 26, Water Code is amended:

Sec. 26.0284. (a) Defines "facility".

(b) Defines "plant site".

(c) Prohibits the issuance of a permit to an owner or operator for the initial facility at a new plant site that has been discharging waste without a required permit; provides that the prohibition applies for three years; however, this prohibition does not apply if the owner or operator ceased operations immediately upon receipt of the notice of violation.

(d) Requires the board or an authorized local government to provide written notice to the owner or operator in violation and include a description of the violation and any penalties; provides that local governments must forward a copy of the notice to the commission.

(e) Provides for an exception under Subsection (c) if certain conditions exist such that continuation of the activity would be more protective than cessation.

(f) The commission shall adopt rules to implement this section.

SECTION 3. Section 27.0181, Chapter 27, Water Code is amended:

Sec. 27.0181. (a) Defines "plant site".

(b) Prohibits the issuance of a permit to an owner or operator of an injection well at a new plant site that has been or is being operated without a permit; provides that the prohibition applies for three years; however, this prohibition does not apply if the owner or operator ceased operations immediately upon receipt of the notice of violation.

(c) Requires the commission or an authorized local government to provide written notice to the owner or operator of the injection well in violation and include a description of the violation and any penalties; provides that local governments must forward a copy of the notice to the board.

(d) The commission shall adopt rules to implement this section.

SECTION 4. Section 4C, Solid Waste Disposal Act is amended:

Sec. 4C. (a) Defines "plant site".

(b) Prohibits the issuance of a permit to an owner or operator of a new facility that has been or is being operated without a required permit; provides that the prohibition applies for three years; however, this prohibition does not apply if the owner or operator ceased operations immediately on receipt of the notice of violation.

(c) Requires the state agency or authorized local government to provide written notice to the owner or operator in violation and include a description of the violation and any penalties; and provides that local governments must forward a copy of the notice to the board.

(d) The commission or department shall adopt rules to implement this section.

SECTION 5. The effective date is September 1, 1989; provides criteria stating to what owner/operator this Act applies.

SECTION 6. Emergency clause.

## COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute amends the same portions of the law as the original: Texas Clean Air Act, Chapters 26 and 27 of the Water Code, and the Solid Waste Disposal Act. The substitute is narrower in scope compared to the original, only applying to the initial facility permit at a new site; it puts the burden on the agency to prove "knowing disregard" of the permitting requirements; does not affect anyone operating in good faith, as the original intended; the substitute preserves the three year penalty for those operating in knowing disregard who refuse to immediately shut down operations upon receiving notice; the substitute preserves the ability of a person affected by this new provision to received a permit if the person shut down operations upon receiving notice of violation; and lastly, it provides for an exemption to the prohibition based on a finding from the commission that the activity is a necessary activity; and that its continuation would be more protective of the environment than its cessation: liability is not limited under this code; and lastly, the substitute provides that the executive director, upon becoming aware of such a situation, shall take necessary measures to process the application.

## SUMMARY OF COMMITTEE ACTION

H.B. 1239 was considered in a public hearing on March 21, 1989. Testifying for the bill was David Melasky, representing the Office of the County Attorney for Harris County. Testifying against the bill was R. Kinnan Goleman. Testifying on the bill were Ralph Marquez, representing Texas Chemical Council, Jim Haley, representing Texas Water Commission, and Jim Haley, representing Texas Water Commission. H.B. 1239 was referred to subcommittee which held a formal meeting on April 10, 1989. Representative Kuempel offered a committee substitute which was adopted and reported favorably back to the committee. The subcommittee report was considered by the full committee on April 20, 1989. The motion to report the bill favorably as substituted and be placed on the Consent calendar carried with a vote of 7 Ayes, 0 Nays, 0 PNV, and 2 Absent.

ENVAC042189

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 21, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: Committee Substitute for  
House Bill No. 1239

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, LV

5

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 20, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1239  
By: Polumbo

FROM: Jim Oliver, Director

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Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM

**ADOPTED**

MAY 5 1989

*Betty Murray*  
Chief Clerk  
House of Representatives

By Polumbo

H.B. No. 1239

Substitute the following for H.B. No. 1239:

By *T. Guernsey*

C.S.H.B. No. 1239

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes) is amended by adding Section 3.283 to read as follows:

Sec. 3.283. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "permit" means a permit, special permit, or exemption issued by the board under this Act.

(b) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(c) The board may not issue a construction or operating permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period of three years after the date on which the owner or operator receives notice of the violation pursuant to Subsection (d) of this section and becomes effective upon the issuance of an order by the

1 board or a court relative to that violation. However, this  
2 prohibition does not apply if the owner or operator ceased  
3 operations immediately upon receipt of the notice of violation.

4 (d) If the board or a local government with enforcement  
5 authority under Section 4.03 of this Act has information that  
6 indicates that a facility described in Subsection (c) of this  
7 section has been or is being constructed or operated without a  
8 permit required by this Act, the board or local government shall  
9 provide written notice of the violation to the owner or operator of  
10 the facility. The notice must describe the violation and inform  
11 the owner or operator of the penalties that may be assessed under  
12 this Act, including the prohibition on issuance of a permit. A  
13 local government that provides the notice shall send a copy of the  
14 notice to the board.

15 (e) The board shall adopt rules to implement this section.

16 SECTION 2. Chapter 26, Water Code, is amended by adding  
17 Section 26.0284 to read as follows:

18 Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
19 this section, "facility" means a sewer system, treatment facility,  
20 or disposal facility.

21 (b) In this section, "plant site" includes all  
22 geographically contiguous property, which may be divided by public  
23 or private rights-of-way, as well as noncontiguous properties owned  
24 by the same person but connected by a right-of-way that the person  
25 controls and to which the public does not have access.

26 (c) The commission may not issue a permit for the initial  
27 facility at a new plant site to an owner or operator who, in



1 knowing disregard of the requirements of this chapter, discharges  
2 waste from the facility without a permit required by this chapter.  
3 This prohibition on permit issuance applies for a period of three  
4 years after the date on which the owner or operator receives notice  
5 of the violation pursuant to Subsection (d) of this section and  
6 becomes effective upon the issuance of an order by the commission  
7 or a court relative to that violation. However, this prohibition  
8 does not apply if the owner or operator ceased operations  
9 immediately upon receipt of the notice of violation.

10 (d) If the commission or a local government with enforcement  
11 authority under Section 26.124 of this code has information that  
12 indicates that a facility described in Subsection (c) of this  
13 section has been or is discharging waste without a permit required  
14 by this chapter, the commission or local government shall provide  
15 written notice of the violation to the owner or operator of the  
16 facility. The notice must describe the violation and inform the  
17 owner or operator of the penalties that may be assessed under this  
18 chapter, including the prohibition on issuance of a permit. A  
19 local government that provides the notice shall send a copy of the  
20 notice to the commission.

21 (e) The prohibition under Subsection (c) of this section  
22 does not apply if, within five days after the receipt of notice of  
23 violation, the owner or operator applies for a finding from the  
24 commission that the activity is a necessary activity, and that its  
25 continuation would be more protective of the environment than its  
26 cessation, and within 10 days of receipt of that application, the  
27 commission makes such a finding. This does not, however, limit the

1 liability of the owner or operator under this code for each day the  
2 owner or operator continues to operate without a permit.  
3 Additionally, upon becoming aware of such a situation, the  
4 executive director shall take measures to put a permit application  
5 for the violating facility preferentially ahead of the processing  
6 of other applications.

7 (f) The commission shall adopt rules to implement this  
8 section.

9 SECTION 3. Chapter 27, Water Code, is amended by adding  
10 Section 27.0181 to read as follows:

11 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
12 this section, "plant site" includes all geographically contiguous  
13 property, which may be divided by public or private rights-of-way,  
14 as well as noncontiguous properties owned by the same person but  
15 connected by a right-of-way that the person controls and to which  
16 the public does not have access.

17 (b) The commission may not issue a permit for the initial  
18 injection well at a new plant site to an owner or operator who, in  
19 knowing disregard of the requirements of this chapter, constructs  
20 or operates an injection well without a permit required by this  
21 chapter. This prohibition on permit issuance applies for a period  
22 of three years after the date on which the owner or operator  
23 receives notice of the violation pursuant to Subsection (c) of this  
24 section and becomes effective upon the issuance of an order by the  
25 commission or a court relative to that violation. However, this  
26 prohibition does not apply if the owner or operator ceased  
27 operations immediately upon receipt of the notice of violation.

1        (c) If the commission or a local government with enforcement  
2 authority under this chapter has information that indicates that an  
3 injection well described in Subsection (b) of this section has been  
4 or is being constructed or operated without a permit required by  
5 this chapter, the commission or local government shall provide  
6 written notice of the violation to the owner or operator of the  
7 facility. The notice must describe the violation and inform the  
8 owner or operator of the penalties that may be assessed under this  
9 chapter, including the prohibition on issuance of a permit. A  
10 local government that provides the notice shall send a copy of the  
11 notice to the commission.

12        (d) The commission shall adopt rules to implement this  
13 section.

14        SECTION 4. The Solid Waste Disposal Act (Article 4477-7,  
15 Vernon's Texas Civil Statutes) is amended by adding Section 4C to  
16 read as follows:

17        Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this  
18 section, "plant site" includes all geographically contiguous  
19 property, which may be divided by public or private rights-of-way,  
20 as well as noncontiguous properties owned by the same person but  
21 connected by a right-of-way that the person controls and to which  
22 the public does not have access.

23        (b) The commission or department may not issue a permit for  
24 the initial facility at a new plant site to an owner or operator  
25 who, in knowing disregard of the requirements of this Act,  
26 constructs or operates the facility without a permit required by  
27 this Act. This prohibition on permit issuance applies for a period

1 of three years after the date on which the owner or operator  
 2 receives notice of the violation pursuant to Subsection (c) of this  
 3 section and becomes effective upon the issuance of an order by the  
 4 commission or department or a court relative to that violation.  
 5 However, this prohibition does not apply if the owner or operator  
 6 ceased operations immediately upon receipt of the notice of  
 7 violation.

8 (c) If the commission or department or a local government  
 9 with enforcement authority under Section 8(a)(4) of this Act has  
 10 information that indicates that a facility described in Subsection  
 11 (b) of this section has been or is being constructed or operated  
 12 without a permit required by this Act, the commission, department,  
 13 or local government shall provide written notice of the violation  
 14 to the owner or operator of the facility. The notice must describe  
 15 the violation and inform the owner or operator of the penalties  
 16 that may be assessed under this Act, including the prohibition on  
 17 issuance of a permit. A local government that provides the notice  
 18 shall send a copy of the notice to the commission or department.

19 (d) The commission or department shall adopt rules to  
 20 implement this section.

21 SECTION 5. This Act takes effect September 1, 1989, and  
 22 applies to an owner or operator who is provided with written notice  
 23 on or after that date by the Texas Air Control Board, the Texas  
 24 Water Commission, the Texas Department of Health, or a local  
 25 government with enforcement authority that the person:

26 (1) has operated or constructed or is operating or  
 27 constructing a facility or an injection well without a permit in

1 violation of the Texas Clean Air Act (Article 4477-5, Vernon's  
2 Texas Civil Statutes), the Solid Waste Disposal Act (Article  
3 4477-7, Vernon's Texas Civil Statutes), or Chapter 27, Water Code;  
4 or

5 (2) has discharged waste or is discharging waste from  
6 a sewer system, treatment facility, or disposal facility without a  
7 permit required under Chapter 26, Water Code.

8 SECTION 6. The importance of this legislation and the  
9 crowded condition of the calendars in both houses create an  
10 emergency and an imperative public necessity that the  
11 constitutional rule requiring bills to be read on three several  
12 days in each house be suspended, and this rule is hereby suspended.

# HOUSE ENGROSSMENT

COMM - 5 FEB 1973

By Polumbo

H.B. No. 1239

## A BILL TO BE ENTITLED

### AN ACT

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(c) The board may not issue a construction or operating permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period of three years after the date on which the owner or operator receives notice of the violation pursuant to Subsection (d) of this section and becomes effective upon the issuance of an order by the

1 board or a court relative to that violation. However, this  
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3 operations immediately upon receipt of the notice of violation.

4 (d) If the board or a local government with enforcement  
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6 indicates that a facility described in Subsection (c) of this  
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11 constitutional rule requiring bills to be read on three several  
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# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 21, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: Committee Substitute for  
House Bill No. 1239

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

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Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, LV

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 20, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1239  
By: Polumbo

FROM: Jim Oliver, Director

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Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM

REQUEST FOR LOCAL & UNCONTESTED CALENDAR  
PLACEMENT

Hon. Bill Sims, Chairman  
Administration Committee

Sir:

Notice is hereby given that SB 1239, by Polombo/GREEN  
was heard by the Committee on NATURAL RESOURCES on 5/17, 1989,  
and reported out with the recommendation that it be placed on the Local and Uncontested  
Calendar.

  
Clerk of the reporting committee

**IMPORTANT:** A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF  
THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE  
BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE  
COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE  
ANY QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR**  
**IS 5:00 P.M. FRIDAY.**

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.

# SENATE FAVORABLY AS AMENDED COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

<sup>18</sup>  
5-17-89  
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred  
HB 1239 by POLUMBO have on MAY 17, 1989, had the same  
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass with 1 amendments, and be printed

☐ do pass as amended, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure GREEN

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	<input checked="" type="checkbox"/>			
Lyon, Vice Chairman				<input checked="" type="checkbox"/>
Armbrister	<input checked="" type="checkbox"/>			
Bivins	<input checked="" type="checkbox"/>			
Brown	<input checked="" type="checkbox"/>			
Carriker	<input checked="" type="checkbox"/>			
Montford	<input checked="" type="checkbox"/>			
Ratliff	<input checked="" type="checkbox"/>			
Sims	<input checked="" type="checkbox"/>			
Uribe	<input checked="" type="checkbox"/>			
Zaffirini				<input checked="" type="checkbox"/>
TOTAL VOTES	<u>10</u>			<u>2</u>

Shirley M. Klemm COMMITTEE CLERK Sen. Smith CHAIRMAN



By: Polumbo (Senate Sponsor - Green) H.B. No. 1239  
(In the Senate - Received from the House May 8, 1989;  
May 9, 1989, read first time and referred to Committee on Natural  
Resources; May 18, 1989, reported favorably, as amended, by the  
following vote: Yeas 8, Nays 0; May 18, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Santiesteban	x			
Lyon				x
Armbrister	x			
Bivins	x			
Brown	x			
Carriker	x			
Montford	x			
Ratliff	x			
Sims	x			
Uribe				x
Zaffirini				x

COMMITTEE AMENDMENT NO. 1

By: Santiesteban

Amend H.B. 1239 by Polumbo as follows:

Section 1--add Subsection 3.283(f) to read as follows:

(f) This section does not apply to the real property, facilities or equipment of a public utility or a mining company providing fuel to a public utility.

Section 2--add Subsection 26.0284(g) to read as follows:

(g) This section does not apply to the real property, facilities or equipment of a public utility or a mining company providing fuel to a public utility.

Section 3--add Subsection 27.081(e) to read as follows:

(e) This section does not apply to the real property, facilities or equipment of a public utility or a mining company providing fuel to a public utility.

Section 4--add Subsection 4C(e) to read as follows:

(e) This section does not apply to the real property, facilities or equipment of a public utility or a mining company providing fuel to a public utility.

A BILL TO BE ENTITLED  
AN ACT

relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health.

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(d) If the board or a local government with enforcement authority under Section 4.03 of this Act has information that indicates that a facility described in Subsection (c) of this section has been or is being constructed or operated without a permit required by this Act, the board or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this Act, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the board.

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(b) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(c) The commission may not issue a permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this chapter, discharges waste from the facility without a permit required by this chapter. This prohibition on permit issuance applies for a period of three years after the date on which the owner or operator receives notice of the violation pursuant to Subsection (d) of this section and becomes effective upon the issuance of an order by the commission or a court relative to that violation. However, this prohibition does not apply if the owner or operator ceased operations immediately upon receipt of the notice of violation.

(d) If the commission or a local government with enforcement authority under Section 26.124 of this code has information that indicates that a facility described in Subsection (c) of this section has been or is discharging waste without a permit required by this chapter, the commission or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission.

(e) The prohibition under Subsection (c) of this section does not apply if, within five days after the receipt of notice of violation, the owner or operator applies for a finding from the commission that the activity is a necessary activity, and that its continuation would be more protective of the environment than its cessation, and within 10 days of receipt of that application, the commission makes such a finding. This does not, however, limit the liability of the owner or operator under this code for each day the owner or operator continues to operate without a permit. Additionally, upon becoming aware of such a situation, the executive director shall take measures to put a permit application for the violating facility preferentially ahead of the processing of other applications.

(f) The commission shall adopt rules to implement this section.

SECTION 3. Chapter 27, Water Code, is amended by adding Section 27.0181 to read as follows:

Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(b) The commission may not issue a permit for the initial injection well at a new plant site to an owner or operator who, in knowing disregard of the requirements of this chapter, constructs

1 or operates an injection well without a permit required by this  
2 chapter. This prohibition on permit issuance applies for a period  
3 of three years after the date on which the owner or operator  
4 receives notice of the violation pursuant to Subsection (c) of this  
5 section and becomes effective upon the issuance of an order by the  
6 commission or a court relative to that violation. However, this  
7 prohibition does not apply if the owner or operator ceased  
8 operations immediately upon receipt of the notice of violation.

9 (c) If the commission or a local government with enforcement  
10 authority under this chapter has information that indicates that an  
11 injection well described in Subsection (b) of this section has been  
12 or is being constructed or operated without a permit required by  
13 this chapter, the commission or local government shall provide  
14 written notice of the violation to the owner or operator of the  
15 facility. The notice must describe the violation and inform the  
16 owner or operator of the penalties that may be assessed under this  
17 chapter, including the prohibition on issuance of a permit. A  
18 local government that provides the notice shall send a copy of the  
19 notice to the commission.

20 (d) The commission shall adopt rules to implement this  
21 section.

22 SECTION 4. The Solid Waste Disposal Act (Article 4477-7,  
23 Vernon's Texas Civil Statutes) is amended by adding Section 4C to  
24 read as follows:

25 Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this  
26 section, "plant site" includes all geographically contiguous  
27 property, which may be divided by public or private rights-of-way,  
28 as well as noncontiguous properties owned by the same person but  
29 connected by a right-of-way that the person controls and to which  
30 the public does not have access.

31 (b) The commission or department may not issue a permit for  
32 the initial facility at a new plant site to an owner or operator  
33 who, in knowing disregard of the requirements of this Act,  
34 constructs or operates the facility without a permit required by  
35 this Act. This prohibition on permit issuance applies for a period  
36 of three years after the date on which the owner or operator  
37 receives notice of the violation pursuant to Subsection (c) of this  
38 section and becomes effective upon the issuance of an order by the  
39 commission or department or a court relative to that violation.  
40 However, this prohibition does not apply if the owner or operator  
41 ceased operations immediately upon receipt of the notice of  
42 violation.

43 (c) If the commission or department or a local government  
44 with enforcement authority under Section 8(a)(4) of this Act has  
45 information that indicates that a facility described in Subsection  
46 (b) of this section has been or is being constructed or operated  
47 without a permit required by this Act, the commission, department,  
48 or local government shall provide written notice of the violation  
49 to the owner or operator of the facility. The notice must describe  
50 the violation and inform the owner or operator of the penalties  
51 that may be assessed under this Act, including the prohibition on  
52 issuance of a permit. A local government that provides the notice  
53 shall send a copy of the notice to the commission or department.

54 (d) The commission or department shall adopt rules to  
55 implement this section.

56 SECTION 5. This Act takes effect September 1, 1989, and  
57 applies to an owner or operator who is provided with written notice  
58 on or after that date by the Texas Air Control Board, the Texas  
59 Water Commission, the Texas Department of Health, or a local  
60 government with enforcement authority that the person:

61 (1) has operated or constructed or is operating or  
62 constructing a facility or an injection well without a permit in  
63 violation of the Texas Clean Air Act (Article 4477-5, Vernon's  
64 Texas Civil Statutes), the Solid Waste Disposal Act (Article  
65 4477-7, Vernon's Texas Civil Statutes), or Chapter 27, Water Code;  
66 or

67 (2) has discharged waste or is discharging waste from  
68 a sewer system, treatment facility, or disposal facility without a  
69 permit required under Chapter 26, Water Code.

70 SECTION 6. The importance of this legislation and the

crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

\* \* \* \* \*

Austin, Texas  
May 18, 1989

Hon. William P. Hobby  
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 1239, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

Santiesteban, Chairman

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 10, 1989

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: House Bill No. 1239,  
as engrossed  
By: Polumbo

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1239, as engrossed (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 21, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: Committee Substitute for  
House Bill No. 1239

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, LV

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 20, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1239  
By: Polumbo

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM

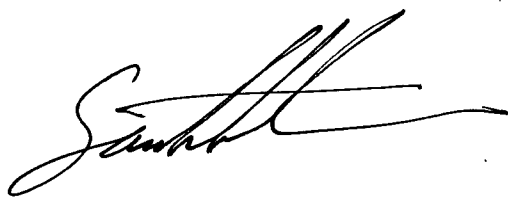
AMEND THE CAPTION TO CONFORM  
TO THE BODY OF THE BILL

**ADOPTED**

MAY 23 1989

*Anthony King*  
Speaker of the House





COMMITTEE AMENDMENT NO. 1

BY \_\_\_\_\_

1 Amend H.B. 1239 by Polumbo as follows:

2 Section 1--add Subsection 3.283(f) to read as follows:

3 (f) This section does not apply to the real property,  
4 facilities or equipment of a public utility or a mining company  
5 providing fuel to a public utility.

6 Section 2--add Subsection 26.0284(g) to read as follows:

7 (g) This section does not apply to the real property,  
/ 8 facilities or equipment of a public utility or a mining company  
9 providing fuel to a public utility.

10 Section 3--add Subsection 27.0181(e) to read as follows:

11/ (e) This section does not apply to the real property,  
12 facilities or equipment of a public utility or a mining company  
13 providing fuel to a public utility.

14 Section 4--add Subsection 4C(e) to read as follows:

15 (e) This section does not apply to the real property,  
16 facilities or equipment of a public utility or a mining company  
17 providing fuel to a public utility.

**ADOPTED**

MAY 25 1969

  
Secretary of the Senate

# SENATE AMENDMENTS

2nd Printing

HOUSE OF REPRESENTATIVES  
23 MAY 23 PM 6:15

By Polumbo

H.B. No. 1239

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes) is amended by adding Section 3.283 to read as follows:

Sec. 3.283. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "permit" means a permit, special permit, or exemption issued by the board under this Act.

(b) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(c) The board may not issue a construction or operating permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period of three years after the date on which the owner or operator receives notice of the violation pursuant to Subsection (d) of this section and becomes effective upon the issuance of an order by the

1 board or a court relative to that violation. However, this  
2 prohibition does not apply if the owner or operator ceased  
3 operations immediately upon receipt of the notice of violation.

4 (d) If the board or a local government with enforcement  
5 authority under Section 4.03 of this Act has information that  
6 indicates that a facility described in Subsection (c) of this  
7 section has been or is being constructed or operated without a  
8 permit required by this Act, the board or local government shall  
9 provide written notice of the violation to the owner or operator of  
10 the facility. The notice must describe the violation and inform  
11 the owner or operator of the penalties that may be assessed under  
12 this Act, including the prohibition on issuance of a permit. A  
13 local government that provides the notice shall send a copy of the  
14 notice to the board.

15 (e) The board shall adopt rules to implement this section.

16 SECTION 2. Chapter 26, Water Code, is amended by adding  
17 Section 26.0284 to read as follows:

18 Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
19 this section, "facility" means a sewer system, treatment facility,  
20 or disposal facility.

21 (b) In this section, "plant site" includes all  
22 geographically contiguous property, which may be divided by public  
23 or private rights-of-way, as well as noncontiguous properties owned  
24 by the same person but connected by a right-of-way that the person  
25 controls and to which the public does not have access.

26 (c) The commission may not issue a permit for the initial  
27 facility at a new plant site to an owner or operator who, in

1 knowing disregard of the requirements of this chapter, discharges  
2 waste from the facility without a permit required by this chapter.  
3 This prohibition on permit issuance applies for a period of three  
4 years after the date on which the owner or operator receives notice  
5 of the violation pursuant to Subsection (d) of this section and  
6 becomes effective upon the issuance of an order by the commission  
7 or a court relative to that violation. However, this prohibition  
8 does not apply if the owner or operator ceased operations  
9 immediately upon receipt of the notice of violation.

10 (d) If the commission or a local government with enforcement  
11 authority under Section 26.124 of this code has information that  
12 indicates that a facility described in Subsection (c) of this  
13 section has been or is discharging waste without a permit required  
14 by this chapter, the commission or local government shall provide  
15 written notice of the violation to the owner or operator of the  
16 facility. The notice must describe the violation and inform the  
17 owner or operator of the penalties that may be assessed under this  
18 chapter, including the prohibition on issuance of a permit. A  
19 local government that provides the notice shall send a copy of the  
20 notice to the commission.

21 (e) The prohibition under Subsection (c) of this section  
22 does not apply if, within five days after the receipt of notice of  
23 violation, the owner or operator applies for a finding from the  
24 commission that the activity is a necessary activity, and that its  
25 continuation would be more protective of the environment than its  
26 cessation, and within 10 days of receipt of that application, the  
27 commission makes such a finding. This does not, however, limit the

1 liability of the owner or operator under this code for each day the  
2 owner or operator continues to operate without a permit.  
3 Additionally, upon becoming aware of such a situation, the  
4 executive director shall take measures to put a permit application  
5 for the violating facility preferentially ahead of the processing  
6 of other applications.

7 (f) The commission shall adopt rules to implement this  
8 section.

9 SECTION 3. Chapter 27, Water Code, is amended by adding  
10 Section 27.0181 to read as follows:

11 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
12 this section, "plant site" includes all geographically contiguous  
13 property, which may be divided by public or private rights-of-way,  
14 as well as noncontiguous properties owned by the same person but  
15 connected by a right-of-way that the person controls and to which  
16 the public does not have access.

17 (b) The commission may not issue a permit for the initial  
18 injection well at a new plant site to an owner or operator who, in  
19 knowing disregard of the requirements of this chapter, constructs  
20 or operates an injection well without a permit required by this  
21 chapter. This prohibition on permit issuance applies for a period  
22 of three years after the date on which the owner or operator  
23 receives notice of the violation pursuant to Subsection (c) of this  
24 section and becomes effective upon the issuance of an order by the  
25 commission or a court relative to that violation. However, this  
26 prohibition does not apply if the owner or operator ceased  
27 operations immediately upon receipt of the notice of violation.

(c) If the commission or a local government with enforcement authority under this chapter has information that indicates that an injection well described in Subsection (b) of this section has been or is being constructed or operated without a permit required by this chapter, the commission or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission.

(d) The commission shall adopt rules to implement this section.

SECTION 4. The Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) is amended by adding Section 4C to read as follows:

Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

(b) The commission or department may not issue a permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this Act, constructs or operates the facility without a permit required by this Act. This prohibition on permit issuance applies for a period

1 of three years after the date on which the owner or operator  
 2 receives notice of the violation pursuant to Subsection (c) of this  
 3 section and becomes effective upon the issuance of an order by the  
 4 commission or department or a court relative to that violation.  
 5 However, this prohibition does not apply if the owner or operator  
 6 ceased operations immediately upon receipt of the notice of  
 7 violation.

8 (c) If the commission or department or a local government  
 9 with enforcement authority under Section 8(a)(4) of this Act has  
 10 information that indicates that a facility described in Subsection  
 11 (b) of this section has been or is being constructed or operated  
 12 without a permit required by this Act, the commission, department,  
 13 or local government shall provide written notice of the violation  
 14 to the owner or operator of the facility. The notice must describe  
 15 the violation and inform the owner or operator of the penalties  
 16 that may be assessed under this Act, including the prohibition on  
 17 issuance of a permit. A local government that provides the notice  
 18 shall send a copy of the notice to the commission or department.

19 (d) The commission or department shall adopt rules to  
 20 implement this section.

21 SECTION 5. This Act takes effect September 1, 1989, and  
 22 applies to an owner or operator who is provided with written notice  
 23 on or after that date by the Texas Air Control Board, the Texas  
 24 Water Commission, the Texas Department of Health, or a local  
 25 government with enforcement authority that the person:

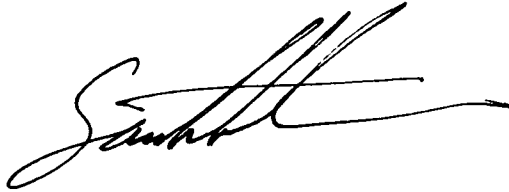
26 (1) has operated or constructed or is operating or  
 27 constructing a facility or an injection well without a permit in

1 violation of the Texas Clean Air Act (Article 4477-5, Vernon's  
2 Texas Civil Statutes), the Solid Waste Disposal Act (Article  
3 4477-7, Vernon's Texas Civil Statutes), or Chapter 27, Water Code;  
4 or

5 (2) has discharged waste or is discharging waste from  
6 a sewer system, treatment facility, or disposal facility without a  
7 permit required under Chapter 26, Water Code.

8 SECTION 6. The importance of this legislation and the  
9 crowded condition of the calendars in both houses create an  
10 emergency and an imperative public necessity that the  
11 constitutional rule requiring bills to be read on three several  
12 days in each house be suspended, and this rule is hereby suspended.





COMMITTEE AMENDMENT NO. 1

BY \_\_\_\_\_

1 Amend H.B. 1239 by Polumbo as follows:

2 Section 1--add Subsection 3.283(f) to read as follows:

3 (f) This section does not apply to the real property,  
4 facilities or equipment of a public utility or a mining company  
5 providing fuel to a public utility.

6 Section 2--add Subsection 26.0284(g) to read as follows:

7 (g) This section does not apply to the real property,  
8 facilities or equipment of a public utility or a mining company  
9 providing fuel to a public utility.

10 Section 3--add Subsection 27.0181(e) to read as follows:

11 (e) This section does not apply to the real property,  
12 facilities or equipment of a public utility or a mining company  
13 providing fuel to a public utility.

14 Section 4--add Subsection 4C(e) to read as follows:

15 (e) This section does not apply to the real property,  
16 facilities or equipment of a public utility or a mining company  
17 providing fuel to a public utility.

**ADOPTED**

MAY 19 1960



18

AMEND THE CAPTION TO CONFORM  
TO THE BODY OF THE BILL

**ADOPTED**

MAY 23 1989

*Henry King*  
Member of the Rules

9

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 10, 1989

TO: Honorable H. Tati Santiesteban, Chairman  
Committee on Natural Resources  
Senate Chamber  
Austin, Texas

In Re: House Bill No. 1239,  
as engrossed  
By: Polumbo

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1239, as engrossed (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 21, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: Committee Substitute for  
House Bill No. 1239

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, LV

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 20, 1989

TO: Honorable Robert Saunders, Chair  
Committee on Environmental Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1239  
By: Polumbo

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1239 (relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Air Control Board; Department of Health; Water Commission;  
LBB Staff: JO, JWH, AL, JG, CKM



board or a court relative to that violation. However, this prohibition does not apply if the owner or operator ceased operations immediately upon receipt of the notice of violation.

(d) If the board or a local government with enforcement authority under Section 4.03 of this Act has information that indicates that a facility described in Subsection (c) of this section has been or is being constructed or operated without a permit required by this Act, the board or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this Act, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the board.

(e) The board shall adopt rules to implement this section.

(f) This section does not apply to the real property, facilities, or equipment of a public utility or a mining company providing fuel to a public utility.

SECTION 2. Chapter 26, Water Code, is amended by adding Section 26.0284 to read as follows:

Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this section, "facility" means a sewer system, treatment facility, or disposal facility.

(b) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person

1 controls and to which the public does not have access.

2 (c) The commission may not issue a permit for the initial  
3 facility at a new plant site to an owner or operator who, in  
4 knowing disregard of the requirements of this chapter, discharges  
5 waste from the facility without a permit required by this chapter.  
6 This prohibition on permit issuance applies for a period of three  
7 years after the date on which the owner or operator receives notice  
8 of the violation pursuant to Subsection (d) of this section and  
9 becomes effective upon the issuance of an order by the commission  
10 or a court relative to that violation. However, this prohibition  
11 does not apply if the owner or operator ceased operations  
12 immediately upon receipt of the notice of violation.

13 (d) If the commission or a local government with enforcement  
14 authority under Section 26.124 of this code has information that  
15 indicates that a facility described in Subsection (c) of this  
16 section has been or is discharging waste without a permit required  
17 by this chapter, the commission or local government shall provide  
18 written notice of the violation to the owner or operator of the  
19 facility. The notice must describe the violation and inform the  
20 owner or operator of the penalties that may be assessed under this  
21 chapter, including the prohibition on issuance of a permit. A  
22 local government that provides the notice shall send a copy of the  
23 notice to the commission.

24 (e) The prohibition under Subsection (c) of this section  
25 does not apply if, within five days after the receipt of notice of  
26 violation, the owner or operator applies for a finding from the  
27 commission that the activity is a necessary activity, and that its



1 continuation would be more protective of the environment than its  
 2 cessation, and within 10 days of receipt of that application, the  
 3 commission makes such a finding. This does not, however, limit the  
 4 liability of the owner or operator under this code for each day the  
 5 owner or operator continues to operate without a permit.  
 6 Additionally, upon becoming aware of such a situation, the  
 7 executive director shall take measures to put a permit application  
 8 for the violating facility preferentially ahead of the processing  
 9 of other applications.

10 (f) The commission shall adopt rules to implement this  
 11 section.

12 (g) This section does not apply to the real property,  
 13 facilities, or equipment of a public utility or a mining company  
 14 providing fuel to a public utility.

15 SECTION 3. Chapter 27, Water Code, is amended by adding  
 16 Section 27.0181 to read as follows:

17 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT. (a) In  
 18 this section, "plant site" includes all geographically contiguous  
 19 property, which may be divided by public or private rights-of-way,  
 20 as well as noncontiguous properties owned by the same person but  
 21 connected by a right-of-way that the person controls and to which  
 22 the public does not have access.

23 (b) The commission may not issue a permit for the initial  
 24 injection well at a new plant site to an owner or operator who, in  
 25 knowing disregard of the requirements of this chapter, constructs  
 26 or operates an injection well without a permit required by this  
 27 chapter. This prohibition on permit issuance applies for a period

1 of three years after the date on which the owner or operator  
2 receives notice of the violation pursuant to Subsection (c) of this  
3 section and becomes effective upon the issuance of an order by the  
4 commission or a court relative to that violation. However, this  
5 prohibition does not apply if the owner or operator ceased  
6 operations immediately upon receipt of the notice of violation.

7 (c) If the commission or a local government with enforcement  
8 authority under this chapter has information that indicates that an  
9 injection well described in Subsection (b) of this section has been  
10 or is being constructed or operated without a permit required by  
11 this chapter, the commission or local government shall provide  
12 written notice of the violation to the owner or operator of the  
13 facility. The notice must describe the violation and inform the  
14 owner or operator of the penalties that may be assessed under this  
15 chapter, including the prohibition on issuance of a permit. A  
16 local government that provides the notice shall send a copy of the  
17 notice to the commission.

18 (d) The commission shall adopt rules to implement this  
19 section.

20 (e) This section does not apply to the real property,  
21 facilities, or equipment of a public utility or a mining company  
22 providing fuel to a public utility.

23 SECTION 4. The Solid Waste Disposal Act (Article 4477-7,  
24 Vernon's Texas Civil Statutes) is amended by adding Section 4C to  
25 read as follows:

26 Sec. 4C. PROHIBITION ON ISSUANCE OF PERMIT. (a) In this  
27 section, "plant site" includes all geographically contiguous

1 property, which may be divided by public or private rights-of-way,  
2 as well as noncontiguous properties owned by the same person but  
3 connected by a right-of-way that the person controls and to which  
4 the public does not have access.

5 (b) The commission or department may not issue a permit for  
6 the initial facility at a new plant site to an owner or operator  
7 who, in knowing disregard of the requirements of this Act,  
8 constructs or operates the facility without a permit required by  
9 this Act. This prohibition on permit issuance applies for a period  
10 of three years after the date on which the owner or operator  
11 receives notice of the violation pursuant to Subsection (c) of this  
12 section and becomes effective upon the issuance of an order by the  
13 commission or department or a court relative to that violation.  
14 However, this prohibition does not apply if the owner or operator  
15 ceased operations immediately upon receipt of the notice of  
16 violation.

17 (c) If the commission or department or a local government  
18 with enforcement authority under Section 8(a)(4) of this Act has  
19 information that indicates that a facility described in Subsection  
20 (b) of this section has been or is being constructed or operated  
21 without a permit required by this Act, the commission, department,  
22 or local government shall provide written notice of the violation  
23 to the owner or operator of the facility. The notice must describe  
24 the violation and inform the owner or operator of the penalties  
25 that may be assessed under this Act, including the prohibition on  
26 issuance of a permit. A local government that provides the notice  
27 shall send a copy of the notice to the commission or department.

1        (d) The commission or department shall adopt rules to  
2        implement this section.

3        (e) This section does not apply to the real property,  
4        facilities, or equipment of a public utility or a mining company  
5        providing fuel to a public utility.

6        SECTION 5. This Act takes effect September 1, 1989, and  
7        applies to an owner or operator who is provided with written notice  
8        on or after that date by the Texas Air Control Board, the Texas  
9        Water Commission, the Texas Department of Health, or a local  
10       government with enforcement authority that the person:

11       (1) has operated or constructed or is operating or  
12       constructing a facility or an injection well without a permit in  
13       violation of the Texas Clean Air Act (Article 4477-5, Vernon's  
14       Texas Civil Statutes), the Solid Waste Disposal Act (Article  
15       4477-7, Vernon's Texas Civil Statutes), or Chapter 27, Water Code;  
16       or

17       (2) has discharged waste or is discharging waste from  
18       a sewer system, treatment facility, or disposal facility without a  
19       permit required under Chapter 26, Water Code.

20       SECTION 6. The importance of this legislation and the  
21       crowded condition of the calendars in both houses create an  
22       emergency and an imperative public necessity that the  
23       constitutional rule requiring bills to be read on three several  
24       days in each house be suspended, and this rule is hereby suspended.

H.B. No. 1239

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1239 was passed by the House on May 5, 1989, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1239 on May 25, 1989, by a non-record vote.

---

Chief Clerk of the House

I certify that H.B. No. 1239 was passed by the Senate, with amendments, on May 23, 1989, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1239<sup>✓</sup> was passed by the House on  
(1)

May 5<sup>✓</sup>, 1989, by a non-record vote;  
(2)

and that the House concurred in Senate amendments to H.B. No. 1239<sup>✓</sup>  
on May 25<sup>✓</sup>, 1989, by a non-record vote.  
(3)

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: 'A;CT64;

I certify that H.B. No. 1239<sup>✓</sup> was passed by the Senate, with  
(1)

amendments, on May 23<sup>✓</sup>, 1989, by the  
(2)

following vote: Yeas 31<sup>✓</sup>, Nays 0<sup>✓</sup>  
(3) (4)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: 'A;CT14;

H. B. No.

1239

By

[Signature]

## A BILL TO BE ENTITLED

## AN ACT

relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health.

FEB 20 1989

1. Filed with the Chief Clerk.

MAR 2 1989

2. Read first time and Referred to Committee on

Environmental AffairsAPR 20 19893. Reported favorably (as amended) and sent to Printer at 6:30pm  
(as substituted) APR 21 1989APR 23 19894. Printed and distributed at 10:15pmAPR 24 19895. Sent to Committee on Calendars at LIC 9:21amMAY 5 19896. Read second time (as subs. as amended); passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of        yeas,        nays,        present, not voting).7. Motion to reconsider and table the vote by which H.B.        was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of        yeas,        nays, and        present, not voting).8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of        yeas,        nays, and        present, not voting.MAY 5 19899. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of        yeas,        nays,        present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B.        was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of        yeas,        nays, and        present, not voting).MAY 5 198912. Ordered Engrossed at 11:49amMAY 5 1989

13. Engrossed.

MAY 5 198914. Returned to Chief Clerk at 4:15pmMAY 8 1989

15. Sent to Senate.

Betty Murray  
Chief Clerk of the House

MAY 8 1989

16. Received from the House

NATURAL RESOURCESMAY 9 198917. Read, referred to Committee on       MAY 18 198918. Reported favorably as amended

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by

(a viva voce vote.)

(        yeas,        nays.)

89 MAY 23 PM 6:15

HOUSE OF REPRESENTATIVES

MAY 23 1989

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

*Laid before Senate*  
23. Read second time *amended* passed to third reading by:  
(a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

MAY 23 1989

24. Caption ordered amended to conform to body of bill.

25. Senate and Constitutional 3-Day Rules suspended by vote of 90 yeas,  
1 nays to place bill on third reading and final passage.

MAY 23 1989

26. Read third time and passed by

(a viva voce vote.)  
(31 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

*Betty King*  
Secretary of the Senate

*May 23, 1989*

27. Returned to the House.

MAY 23 1989

28. Received from the Senate (with amendments.)  
(~~Re-substituted.~~)

MAY 25 1989

29. House (Concurred) (~~Refused to Concur~~) in Senate (Amendments) by (Non-Record  
(Substitute) Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
~~not voting.~~)

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

MAY 25 1989

32. Ordered Enrolled at 8:18 pm

HOUSE OF REPRESENTATIVES  
89 MAY 23 PM 6:15  
SENATE - 5 PM 6:15

NR

1239